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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,533	01/06/2004	Lou H. Seymour	PAT 942-2	3302
26123	7590	09/28/2005	EXAMINER	
BORDEN LADNER GERVAIS LLP WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA			PRICE, RICHARD THOMAS JR	
			ART UNIT	PAPER NUMBER
			3643	
DATE MAILED: 09/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/751,533

Applicant(s)

SEYMOUR, LOU H.

Examiner

Thomas Price

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09-20-2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 11, 12, 14 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 11, 12, 14 and 21-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 11, 12, 21-26 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Hadley (US Patent 6,619,521).

Hadley teaches an umbrella support apparatus which is structurally similar to the Applicant's claimed umbrella for an animal. The Applicant's claimed "saddle" absence any modifying language can broadly read on the waistband 30. In Merriam Webster's Collegiate Dictionary Tenth Edition "saddle" includes a device mounted as a support and often shaped to fit the object held. Straps 35 are connected to the saddle for attaching the saddle to the animal. A collapsible canopy 80 includes a shaft 86 with first and second ends. See Figures 1 and 3. The first end is connected to the collapsible canopy. A pivot pin is connected to the saddle for attaching the second end of the shaft 86 to the saddle 30 and defining an axis of rotation about which the shaft 86 rotates between a substantially vertical and a substantially horizontal position relative to the saddle while the shaft 86 is attached to the saddle. A position lock 66 or 56 releasably

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secures the shaft 86 in the vertical position when the shaft 86 is attached to the saddle 30.

Regarding claims 11 and 12, the elevation and attitude of the user defines whether the canopy position is called horizontal or vertical. Despite this, the canopy is able to maintain a variety of positions from vertical to horizontal. Straps 24a and 24b are considered to be folded canopy holders attached to an end of the saddle 30 distal to the animal's head.

In regards to claim 21, the pivot pin of Hadley traverses the second end of the shaft to secure the shaft pivotally to the saddle.

As for claim 22, as seen in Figure 3, a plate is secured to the saddle and first and second mutually substantially parallel planar members secured substantially perpendicular to the plate. The pivot pin traverses the first planar member, a first hole in the second end of the shaft and the second planar member.

Regarding claims 23, 24 and 28, the pivot pin releasably engages the saddle. Although made out of metal, pivot pin of Hadley includes a component of elasticity, and as such, is believed to be resilient. However, the reference to Hadley does not teach a ring positioned on the saddle, nor a telescopic adjustable shaft.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hadley (US Patent 6,619,521) in view of Colorado (US Patent 6,732,834). Colorado teaches a ring attached to a waistband. Regarding claim 14, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the apparatus of Hadley with a ring, in view of the teaches of Colorado, in order to attach a tether. As for claim 27, the use of a telescopically adjustable shaft for an umbrella is well known and thus deemed to be obvious to one of ordinary skill in the art at the time the invention was made because it allows the umbrella to increase in height.

Conclusion

Summary: Claims 1, 11, 12, 14 and 21-28 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 571-272-6892. The examiner can normally be reached on M-F from 6:30a.m. to 3:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Thomas Price
Primary Examiner GAU: 3643

rtp